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**TERMINAL DISCLAIMER TO OBTAIN A DOUBLE PATENTING
REJECTION OVER A "PRIOR" PATENT**

Docket Number (Optional)

MSB-7273-D1

In re Application of: ARMEN B. SHANAFET
Application No.: 10/826,809
Filed: 04/17/2004
For: BAYER PHARMACEUTICALS CORPORATION

The owner, BAYER PHARMACEUTICALS CORP. a 100% percent interest in the instant application hereby disclaims, except as provided below, the terminal part of the statutory term of any patent granted on the instant application which would extend beyond the expiration date of the full statutory term prior patent No. 6,455,807 as the term of said prior patent is defined in 35 U.S.C. 154 and 173, and as the term of said prior patent is presently shortened by any terminal disclaimer. The owner hereby agrees that any patent so granted on the instant application shall be enforceable only for and during such period that it and the prior patent are commonly owned. This agreement runs with any patent granted on the instant application and is binding upon the grantee, its successors or assigns.

In making the above disclaimer, the owner does not disclaim the terminal part of the term of any patent granted on the instant application that would extend to the expiration date of the full statutory term as defined in 35 U.S.C. 154 and 173 of the prior patent, "as the term of said prior patent is presently shortened by any terminal disclaimer," in the event that said prior patent later:

expires for failure to pay a maintenance fee;
is held unenforceable;
is found invalid by a court of competent jurisdiction;
is statutorily disclaimed in whole or terminally disclaimed under 37 CFR 1.321;
has all claims canceled by a reexamination certificate;
is reissued; or
is in any manner terminated prior to the expiration of its full statutory term as presently shortened by any terminal disclaimer.

Check either box 1 or 2 below, if appropriate.

1. ☐ For submissions on behalf of a business/organization (e.g., corporation, partnership, university, government agency, etc.), the undersigned is empowered to act on behalf of the business/organization.

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

2. ☒ The undersigned is an attorney or agent of record. Reg. No. 44,892

John W. Mahoney
Signature

3-1-2006
Date

JOHN W. MAHONEY
Typed or printed name

(510) 705-7725
Telephone Number

- ☒ Terminal disclaimer fee under 37 CFR 1.20(d) included.

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*Statement under 37 CFR 3.73(b) is required if terminal disclaimer is signed by the assignee (owner).
Form PTO/SB/98 may be used for making this certification. See MPEP § 324.

This collection of information is required by 37 CFR 1.321. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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Application No. 10/826809
Response to Examiner Discussion

Attorney Docket No. MSB-7273-D1

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

MAR 01 2006

In Re Application of: Shanafelt, et al.

Group Art Unit: 1646

Serial Number: 10/826,809

Examiner: Mertz, Prema Maria

Filed: 04/17/04

Title: IL-2 Selective Agonists and Antagonists

<p align="center">CERTIFICATE OF Transmission under 37 C.F.R. 1.8(a)</p> <p>I hereby certify that this correspondence is being facsimile transmitted to the U.S. Patent and Trademark (FAX No. (571) 273-0876)</p> <p>On <u>March 15, 2006</u>, Date:</p> <p>Typed or printed name of person signing this certificate John W. Mahoney, Reg. No. 44,892</p> <p>Signature: <u>John W. Mahoney</u></p>
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AMENDMENT

Honorable Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

This communication is responsive to a telephone discussion with Examiner Mertz on February 21, 2006. Applicants hereby provided amended claims and a Terminal Disclaimer (attached hereto). Applicants hereby authorize the Commissioner to charge the Terminal Disclaimer fee to Applicants' Deposit Account (03-4000).

Amendments **IN THE CLAIMS** begin on page 2 of this paper.

Remarks begin on page 3 of this paper.

Terminal Disclaimer attached.

Application No. 10/826809
Response to Examiner Discussion

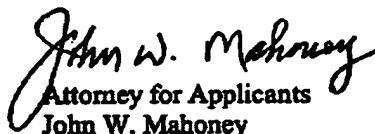
Attorney Docket No. MSB-7273-D1

REMARKS

Claims 14-16 are pending in the case; and Claims 14 and 16 are now amended.
Attached hereto is a Terminal Disclaimer relative to US patent number 6,955,807.

Should the Examiner believe that a telephone interview would aid in the prosecution of this application, Applicants encourage the Examiner to call their Attorney at the phone number listed below.

Respectfully Submitted,


Attorney for Applicants
John W. Mahoney
Reg. No. 44,892

March 1, 2006

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